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SUBJECT: AUSTR DONNELLY PRESSES GOK FOR FURTHER ECONOMIC

REFORMS IN TIFA MEETING

REF: KUWAIT 165

Classified By: CDA Alan G. Misenheimer for reasons 1.4 (b) and (d)

11. (C) Summary: On February 14, a delegation led by Assistant U.S. Trade Representative Shaun Donnelly met with a GOK delegation led by Under Secretary of Commerce and Industry Rasheed Al-Tabtabai for the third round of Trade and Investment Framework Agreement (TIFA) talks between the U.S. and Kuwait since 2004, and the first held in Kuwait. Prior to the plenary session of the TIFA Council, AUSTR Donnelly met separately with Finance Under Secretary Khaleefa Hamada, Information Under Secretary Shaykh Faisal Al-Malik Al Sabah, and Amir's Economic Advisor Dr. Yousef Al-Ebraheem to acknowledge the GOK's progress on some TIFA-related issues while emphasizing that much more needed to be done. He highlighted intellectual property rights (IPR) and public procurement as critical areas for improvement. Donnelly told Dr. Al-Ebraheem that occasional public statements by GOK officials indicating that an FTA is imminent were unhelpful. The four-hour TIFA session included 15 GOK officials from six ministries and twelve USG officials from five agencies and the Embassy. The most important outcomes of the TIFA meeting were the identification of GOK and USG counterparts for specific TIFA issues and greater clarity on achievable next steps. AUSTR Donnelly emphasized that an FTA was not likely in the near future. He suggested the Kuwaitis identify and send a small group of experts to Washington to delve into the details of an FTA and what it would mean for Kuwait's economy. End Summary.

Pre-TIFA Meetings

12. (C) In meetings with the GOK prior to the formal start of the TIFA talks, AUSTR Donnelly remarked that the U.S. and Kuwait enjoy a strong and mutually beneficial political and security relationship but the lag in Kuwaiti economic reforms is preventing bilateral trade and investment from reaching their full potential. He acknowledged that the new tax law reducing the tax rate on foreign companies from 55 to 15 percent and a surge in the number of raids conducted against IPR violators were positive steps. He stressed, however, that the GOK still needs to update and strengthen IPR legislation, fully comply with its WTO obligations, and address technical barriers to trade. Donnelly suggested that if the GOK were interested, a bilateral investment treaty (BIT) might be a reasonable goal for the medium term. AUSTR Donnelly offered to send draft BIT language to the Amir's Economic Advisor Dr. Al-Ebraheem for his informal consideration.

¶3. (C) All three GOK officials said they welcomed further dialogue and engagement with the U.S. on outstanding TIFA issues and signaled their eagerness to implement further economic reforms despite the difficulty of passing some of the necessary legislation through the National Assembly. Dr. Al-Ebraheem, Finance U/S Hamada and Finance Ministry Director of International Economic Affairs Ishaq Abdulkarim each indicated that a new inter-ministerial Higher Committee for Development and Planning, supported by technical assistance from the World Bank, would take a more aggressive approach towards designing and implementing a five-year plan for economic reform and development. Abdulkarim said that the Ministry of Planning was also receiving technical assistance from the Korean Development Institute.

¶4. (C) Information U/S Al Sabah and his staff said the Ministry was continuing to increase the size of its IPR enforcement team and, through draft IPR legislation which the U/S expects to be passed by the end of the year, was pushing for stricter penalties for IPR violators. Shaykha Rasha Al Sabah, head of the Information Ministry's IPR team, acknowledged that Kuwait's IPR legislation needs to be updated to reflect advances in technology but said it was unlikely that the GOK would sign on to World Intellectual Property Organization (WIPO) internet treaties in the near future. (Note: Despite Shaykha Rasha's objections, Ministry of Information and MOCI officials tell us that GOK is ready to sign WIPO internet treaties. They expect these treaties to be signed in the next several months. End Note).

¶5. (C) Amir's Economic Advisor Dr. Al-Ebraheem said he was disappointed by the slow progress on TIFA and blamed the combination of high oil prices and the failure of the GOK to appoint a single leader to champion economic issues, coordinate efforts, and enforce deadlines. He noted that the

GOK has commissioned a number of studies, the most recent of which was just completed by McKinsey and Company, but has fallen short on implementation. Dr. Al-Ebraheem also suggested that the GOK needed to raise awareness within the private sector of the benefits of TIFA-related economic reforms, saying, "Kuwait is a small country, and the support of a few influential individuals in the private sector can make all the difference." He expressed interest in considering the benefits of a BIT, but suggested that the proposal for a BIT should be initiated from the top down, i.e. starting at the level of the Prime Minister or Foreign Minister rather than at the TIFA Council.

Amir's Econ Advisor defends Sovereign Wealth Fund

¶6. (C) Dr. Al-Ebraheem also raised the issue of the increased scrutiny of Sovereign Wealth Funds (SWFs) and USG and IMF calls for more transparent management of these funds from states. He emphasized that it was important to differentiate between older and more reputable funds, such as Kuwait Investment Authority (KIA), and newer funds that might be more politically motivated and less responsible investors. Dr. Al-Ebraheem said it was unreasonable to demand that funds such as KIA disclose information about individual investments.

TIFA Council Meeting

¶7. (C) In a four-hour TIFA Council meeting hosted by the Ministry of Commerce and U/S Rasheed Al-Tabtabai, AUSTR Donnelly praised Kuwait for the progress made in economic reforms in recent months. He stressed, however, that a lot more work remains to be done before U.S. and Kuwait can move on to FTA negotiations. AUSTR Donnelly commended the Ministry and the Customs authority for improvements in IPR enforcement. Increased raids and prosecution of violators are a good first step, he said, but without legislation requiring stricter penalties, enforcement efforts alone will not reduce piracy in Kuwait. Ministry of Information

representatives affirmed that new IP and Copyright legislation have been sent to the Cabinet Council for review and expected the draft law to be sent to Parliament within two months.

18. (C) AUSTR Donnelly noted that despite advances in the area of IPR, government procurement, agency laws, and the standards regime remain major obstacles to the TIFA process. The GOK needs to liberalize its market to encourage international trade and investment, not just for the benefit of U.S. companies, but for the benefit of the Kuwaiti economy, AUSTR Donnelly stressed. Before we can move on to the FTA negotiations stage, Kuwait needs to address some of its obligations under WTO. On the Information Technology Agreement, the GOK acknowledged it will join but said implementation is still awaiting an Amiri Decree expected in the next few months.

19. (C) On GCC-related issues such as food import requirements and conformity assessment, AUSTR Donnelly noted that the USG would like to meet with GOK and other GCC experts during the March GCC meeting in Geneva. GOK reps encouraged the U.S. to provide comments on GCC technical conformity standards. AUSTR Donnelly asked the GOK to consider applying for observer status on the WTO Government Procurement Committee. This would be the first step towards considering full-fledged implementation of WTO Government Procurement rules. The GOK has reservations about accepting WTO standards on government procurement, but promised to consider an observer status on the committee.

110. (C) AUSTR Donnelly also mentioned the possibility of starting informal discussions on a possible BIT. The GOK expressed great interest and noted that the Ministry of Finance had read and analyzed the model BIT that was sent as background. AUSTR Donnelly cautioned that the BIT would require the GOK to open its market significantly to foreign investment, especially in the energy sector. Donnelly pointed to the GOK's protection of its energy sector as a significant barrier to possible BIT negotiations.

111. (C) In addition to discussions on specific TIFA issues, one of the most important outcomes of the meeting was to identify expert GOK counterparts for specific issues. USG officials met with their counterparts and discussed details of TIFA issues prior to the TIFA session. USDA officials

visited food safety offices in Kuwait and met with key counterparts. USPTO officials visited the Kuwaiti Trademark office and discussed details of trademark enforcement and the new draft law. Both sides agreed to follow up with their counterparts on an on-going basis.

112. (C) Overall impressions of the TIFA Council meeting were generally positive on both sides. The GOK hoped that this round of meetings would lead to FTA negotiations. AUSTR Donnelly commended progress made on TIFA issues in the last year, but stressed that no FTA negotiations could be undertaken as long as several key TIFA issues remain unresolved. "An FTA is a long process; we are making small steps towards our vision of an FTA," he said. "Although the steps you have taken are significant, we are not yet ready for FTA negotiations." As a next step, AUSTR Donnelly suggested that the GOK nominate a few economic and trade experts to travel to Washington and discuss a model FTA at greater length. (Note: Lack of GOK expertise and understanding of the FTA process remain important challenges to progress on TIFA or eventual BIT or FTA negotiations. Comprehensive and detailed meetings on the requirements of FTA could help clarify GOK's role in the process. End Note).

Comment

113. (C) While the technical meetings were positive, and it was evident the Kuwaitis have made progress in key areas, we continue to have doubts about the extent to which Kuwait's economic officials really understand requirements of an FTA

with the United States, particularly changes that would be required in the management of the Kuwaiti economy. The GOK has hummed the "FTA Now" mantra for over a year, drowning out persistent U.S. objections that Kuwait has not yet taken the substantive actions required prior to engagement in serious FTA negotiations. While we collectively need to review the most appropriate next steps so as not to lose momentum from this successful TIFA round, we anticipate GOK resistance to the idea of on dispatching a team of experts to Washington soon for more detailed discussions. We will send septel our thoughts on next steps.

¶14. (U) AUSTR Donnelly cleared this cable.

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